

§ 489.12

(2) Specifies the effective date of the agreement; and

[45 FR 22937, Apr. 4, 1980, as amended at 59 FR 56251, Nov. 10, 1994]

§ 489.12 Decision to deny an agreement.

(a) *Bases for denial.* HCFA may refuse to enter into an agreement for any of the following reasons:

(1) Principals of the prospective provider have been convicted of fraud (see § 420.204 of this chapter);

(2) The prospective provider has failed to disclose ownership and control interests in accordance with § 420.206 of this chapter; or

(3) The prospective provider is unable to give satisfactory assurance of compliance with the requirements of title XVIII of the Act.

(b) [Reserved]

(c) *Compliance with civil rights requirements.* HCFA will not enter into a provider agreement if the provider fails to comply with civil rights requirements set forth in 45 CFR parts 80, 84, and 90, subject to the provisions of § 489.10.

[45 FR 22937, Apr. 4, 1980, as amended at 51 FR 34833, Sept. 30, 1986; 54 FR 4027, Jan. 27, 1989; 59 FR 6578, Feb. 11, 1994; 59 FR 56251, Nov. 10, 1994]

§ 489.13 Effective date of agreement.

(a) *All Federal requirements are met on the date of the survey.* The agreement is effective on the date the on-site survey is completed if, on the date of the survey, the provider meets all Federal health and safety conditions of participation or requirements (for SNFs), and any other requirements imposed by HCFA.

(b) *All Federal requirements are not met on the date of the survey.* If the provider fails to meet any of the requirements specified in paragraph (a) of this section, the agreement will be effective on the earlier of the following dates:

(1) The date on which the provider meets all requirements.

(2) Except for SNFs, the date on which the provider is found to meet all conditions of participation and submits a plan of correction acceptable to HCFA for lower-level deficiencies or an approvable waiver request, or both.

(3) The date on which a SNF—

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(i) Is in substantial compliance, as defined in § 488.301; and

(ii) Submits, if applicable, an approvable waiver request.

[59 FR 56251, Nov. 10, 1994; 60 FR 50119, Sept. 28, 1995]

§ 489.18 Change of ownership or leasing: Effect on provider agreement.

(a) *What constitutes change of ownership—*(1) *Partnership.* In the case of a partnership, the removal, addition, or substitution of a partner, unless the partners expressly agree otherwise, as permitted by applicable State law, constitutes change of ownership.

(2) *Unincorporated sole proprietorship.* Transfer of title and property to another party constitutes change of ownership.

(3) *Corporation.* The merger of the provider corporation into another corporation, or the consolidation of two or more corporations, resulting in the creation of a new corporation constitutes change of ownership. Transfer of corporate stock or the merger of another corporation into the provider corporation does not constitute change of ownership.

(4) *Leasing.* The lease of all or part of a provider facility constitutes change of ownership of the leased portion.

(b) *Notice to HCFA.* A provider who is contemplating or negotiating a change of ownership must notify HCFA.

(c) *Assignment of agreement.* When there is a change of ownership as specified in paragraph (a) of this section, the existing provider agreement will automatically be assigned to the new owner.

(d) *Conditions that apply to assigned agreements.* An assigned agreement is subject to all applicable statutes and regulations and to the terms and conditions under which it was originally issued including, but not limited to, the following:

(1) Any existing plan of correction.

(2) Compliance with applicable health and safety standards.

(3) Compliance with the ownership and financial interest disclosure requirements of part 420, subpart C, of this chapter.

(4) Compliance with civil rights requirements set forth in 45 CFR Parts 80, 84, and 90.